

**BUDD LARNER**

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September 8, 2014

By ecf & Overnight Mail

Hon. Mary L. Cooper, U.S.D.J.  
Clarkson S. Fisher Federal Building  
& U.S. Courthouse  
Room 5000  
402 E. State Street  
Trenton NJ 08608

Re: Craig Thorner et al. v. Sony, et al.  
Budd Lerner, P.C. Fee Petition  
Civil Action No. 09-cv-01894 (MLC) (DEA)

Dear Judge Cooper:

As Your Honor will recall, on August 14, 2014, you entered and filed a Memorandum Opinion and Order and Judgment concerning the attorney fee lien of Budd Lerner, P.C.

In accordance with recent telephone conversations with Jack O'Brien of the Clerk's office, I am providing the Court with an Order Authorizing Disbursement of Monies from the Court's Registry Fund Pursuant to L.Civ.R. 67.1(b) and Amended Judgment (the "Order and Amended Judgment").

As you will see, and in accordance with my conversations with Mr. O'Brien, the Order and Amended Judgment sets forth the calculation of the amount of prejudgment and post-judgment interest to which Petitioner *pro se* Budd Lerner, P.C. is entitled pursuant to Your Honor's August 14, 2014 Order and Amended Judgment. For simplicity, we have calculated the amount of post-judgment interest through Wednesday, September 10, 2014.

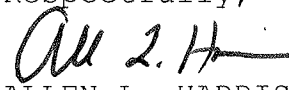
Pursuant to L.Civ.R. 67.1(b)(1), we are submitting the proposed Order and Amended Judgment to Mr. O'Brien and Ms. Denise Howard (of the Clerk's office) for approval as to the form and content of the Order and Amended Judgment before consideration by Your Honor.

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Hon. Mary L. Cooper, U.S.D.J. PROFESSIONAL CORPORATION

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Respectfully,

A handwritten signature in black ink, appearing to read "Allen L. Harris", with a stylized flourish at the end.

ALLEN L. HARRIS

cc: Arthur M. Pelsak, Esq. (by e-mail, w/encls.)

Mr. Jack O'Brien (by overnight mail w/encls.)

Ms. Denise Howard (by overnight mail w/encls.)

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(973) 379-4800  
Attorneys for Petitioner, *pro se*

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CRAIG THORNER and  
VIRTUAL REALITY FEEDBACK  
CORPORATION,

Plaintiffs,

V.

SONY COMPUTER ENTERTAINMENT  
AMERICA, LLC; SONY COMPUTER  
ENTERTAINMENT INC.; SONY  
ELECTRONICS, INC.; GREGORY  
S. GEWIRTZ; LERNER DAVID  
LITTENBERG KRUMHOLZ &  
MENTLIK, LLP; RILEY RUSSELL;  
LARRY C. RUSS; MARC A.  
FENSTER; and RUSS AUGUST &  
KABAT,

Defendants,

GREGORY S. GEWIRTZ and  
LERNER DAVID LITTENBERG  
KRUMHOLZ & MENTLIK, LLP,

Defendants/Third-Party  
Plaintiffs,

V.

GLENN M. DIEHL, ESQ. and  
DIEHL SERVILLA, LLC

Third-Party Defendants :

This matter having been opened to the Court by Petitioner *pro*

se Budd Larner, P.C. (hereinafter "Petitioner" or "Budd Larner") for the disbursement of certain monies to Budd Larner pursuant to L.Civ.R. 67.1(b) that were deposited in the Court's Registry Fund and transferred into the Court Registry Investment System ("CRIS"); and

It appearing that on July 17, 2013, Budd Larner filed a Petition to enforce its attorney fee lien pursuant to N.J.S.A. 2A:13-5 against its former clients, Craig Thorner and Virtual Reality Feedback Corporation (collectively the "Plaintiffs"); and

It appearing that on August 6, 2013, a Stipulated Order of Dismissal was filed providing, among other things, that Sony Computer Entertainment, Inc., Sony Electronics Inc. and Riley Russell (collectively the "Sony Defendants") shall deposit \$62,287.26 into the Court's Registry Fund to be transferred into CRIS to be held in escrow pending resolution of the petition to enforce an attorney's fee lien filed by Petitioner against Plaintiffs [Dkt. Entry 226]; and

It appearing that on or about August 7, 2013, \$62,287.26 was sent to the Court's Registry Fund by counsel for the Sony Defendants to be held in escrow [Dkt. Entries 227 & 228]; and

It appearing that on March 19, 2014, the Hon. Mary L. Cooper U.S.D.J. filed a Memorandum Opinion and an Order to Show Cause in which the Court determined, among other things, that Budd Larner's attorney fee lien Petition was granted against the portion of the \$62,287.26 that is being held in escrow pursuant to the Court's

August 6, 2013 Order insofar as the attorney's fees are related to (1) work performed in connection with the motion to stay pending appeal and (2) the appeal to the United States Court of Appeals for the Federal Circuit [Dkt. Entries 237 & 238]; and

It appearing that on August 14, 2014, Judge Cooper entered a Memorandum Opinion and Order and Judgment relating to the Order to Show Cause filed by the Court on March 19 [Dkt. Entries 243 & 244]; and

It appearing that in the August 14 Order and Judgment, Judge Cooper adjudged, among other things, that the attorney fee lien of Budd Larner attaches to \$36,653; and

It appearing that in the August 14 the Order and Judgment Budd Larner was awarded judgment for the following amounts:

(a) \$36,653 for the unpaid attorney fee; and

(b) prejudgment interest upon the aforementioned \$36,653.00 to be calculated by the Clerk of the Court at the statutory rate in effect on August 14, 2014 as set forth in 28 U.S.C. §1961, for the period beginning August 6, 2013 and ending August 14, 2014; and

It appearing that the statutory rate in effect on August 14, 2014 as set forth in 28 U.S.C. §1961 is 0.10%; and

It appearing, therefore, that prejudgment interest that has accrued for the period beginning August 6, 2013 and ending August 14, 2014 is \$37.48 ( $\$36,653 \times 0.10\% = \$36.65$  for the period of August 6, 2013 through August 6, 2014 and \$83 for the period of August 7, 2014 through August 14, 2014); and

It appearing that it was Adjudged in the August 14 Order and Judgment that interest will accrue upon the total amount calculated - \$36,690.48 (\$36,653 + \$37.48) at the statutory post-judgment rate commencing on August 15, 2014, until the judgment is satisfied; and

It appearing that post-judgment interest accrues at the statutory rate that is equivalent to ¢10 per day ( $\$36,690.48 \times 0.10\% = \$36.69$  per year;  $\$36.69$  divided by 365 is ¢10 per day); and

It appearing that Petitioner having shown that it is entitled to judgment and the receipt of \$36,690.48 plus post-judgment interest commencing on August 15, 2014 at the per diem rate of ¢10; and

It appearing that as of September 30, 2014, \$2.60 in post-judgment interest shall have accrued; and

It appearing that Petitioner having provided full proof of its right to judgment and the distribution of \$36,690.48 plus post-judgment interest of \$2.60 for a total of \$36,693.08 from the \$62,287.26 being held in escrow in CRIS; and

It appearing that no provision was made in the Court's August 14, 2014 Memorandum Opinion and Order and Judgment for interest accrued on the \$62,287.26 in CRIS to be apportioned between the parties; and

It appearing that proper notice has been provided to Arthur Peslak, counsel for plaintiffs Craig Thorner and Virtual Reality Feedback Corporation and that this request for disbursement from

the Court Registry has been submitted to the Clerk of the Court for approval pursuant L.Civ.R. 67.1; and

It appearing that good cause has been shown;

IT IS on this            day of            , 2014:

ADJUDGED AS FOLLOWS:

(1) Judgment be and hereby is entered in favor of Petitioner *pro se* Budd Larner, P.C. and against plaintiffs Craig Thorner and Virtual Reality Feedback Corporation, jointly and severally, in the amount of \$36,693.08 The Court's August 14, 2014 Order and Judgment be and is hereby amended accordingly; and

(2) Pursuant to L.Civ.R. 67.1(b), \$36,693.08 shall be disbursed from the Court's Registry Fund and paid directly by the Court's Registry Fund to Budd Larner, P.C., 150 John F. Kennedy Parkway, Short Hills, New Jersey (Attention: Allen L. Harris, Esq.) within twenty (20) days from the date hereof; and

(3) Any fee to be deducted by the Custodian of the Court's Registry pursuant to L.Civ.R. 67.(b)(3) shall not be deducted from the monies due and distributed to Petitioner pursuant to paragraph 2 above but, rather, shall be paid from the monies remaining in escrow in the Court's Registry following the disbursement of \$36,693.08 to Petitioner.

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Hon. Mary L. Cooper, U.S.D.J.

Dated:

L.Civ.R. 67.1(b)(4)

I recommend approval of the above order and declare that no lien or other claim against monies deposited in the Registry of the Court in the matter is on file in my office as of this date.

Dated:

\_\_\_\_\_  
Clerk/Deputy Clerk

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